

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2716 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANHARLAL PRABHULAL VADHER

Versus

STATE OF GUJARAT

Appearance:

Shri P.J.Vyas, Advocate for the petitioner

Shri A.G.Uraizee, Assistant Government Pleader, for respondent no.1

Respondents nos.2 to 4 served.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 07/08/96

ORAL JUDGEMENT

The order passed by the Deputy Collector at Rajkot on 29th August 1983 as affirmed in appeal by the order passed by the Collector of Rajkot on 27th April 1984 as further affirmed in revision by the order passed

by and on behalf of the State Government (respondent no.1 herein) on 21st November 1984 is under challenge in this petition under Article 226 of the Constitution of India. By his impugned order, the Deputy Collector ordered recovery of Rs.677.30 ps. towards the N.A. assessment and local fund and other taxes accordingly from 1980-81 and the N.A. assessment in the sum of Rs.10,159.50 ps. and the penalty by way of 40 times assessment in sum of Rs.27,012/- for unauthorised non-agricultural use of one parcel of land bearing Survey No.111 admeasuring 1 acre 27 gunthas situated at Rajkot ('the disputed land' for convenience) and also ordered removal of the unauthorised structure standing thereon.

The facts giving rise to this petition move in a narrow compass. The disputed land originally belonged to respondents nos.2 and 3 herein. It was a piece of agricultural land. They sold it to the petitioner and respondent no.4 sometime in 1981. The purchaser raised construction thereon for carrying on their business of Sari printing without obtaining what is popularly known as the N.A. permission under Section 65 of the Bombay Land Revenue Code, 1879 ('the Code' for brief). It appears to have come to the notice of the Deputy Collector at Rajkot. A showcause notice thereupon came to be issued for an action for unauthorised non-agricultural use of the disputed land. After hearing the parties by the order passed on 29th August 1983, the Deputy Collector ordered payment of the aforesaid amount from respondents nos.2, 3 and 4 and also ordered removal of the unauthorised construction raised therein. Its copy is at Annexure.A to this petition. That aggrieved respondents nos.2, 3 and 4 herein. They therefore carried the matter in appeal before the Collector of Rajkot under Section 203 of the Code. By the order passed on 27th April 1984 in the aforesaid appeal, the Collector of Rajkot dismissed it. Its copy is at Annexure.B to this petition. That again aggrieved respondents nos.2, 3 and 4 herein. They therefore invoked the revisional jurisdiction of respondent no.1 under Section 211 of the Code. By the order passed on 21st November 1984 by and on behalf of respondent no.1, the revisional application came to be rejected. Its copy is at Annexure.C to this petition. That aggrieved the present petitioner. He has therefore approached this Court by means of this petition under Article 226 of the Constitution of India for questioning the correctness of the order at Annexure.A to this petition as affirmed in appeal by the order at Annexure.B to this petition as further affirmed in revision by the order at Annexure.C to this petition.

The facts and contentions raised in this petition are similar to those found and raised in Special Civil Application No. 2710 of 1985 decided on 6th August 1996. After hearing the petitioner in that petition, this Court negatived such contentions and rejected the petition. I do not want to burden this judgment by repeating the submissions urged before me which are similar to those urged before me in the aforesaid petition disposed of on 6th August 1996. On the same reasoning, as was assigned in Special Civil Application No. 2710 of 1985 decided on 6th August 1996, this petition also deserves to be rejected.

In the result, this petition fails. It is hereby rejected. Rule is accordingly discharged with no order as to costs. The ad-interim relief stands vacated.
